

SCANNED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

42 U.S.C. §1983

TONY SHAW

Plaintiff,

AMENDED
COMPLAINT

-VS-

Civil Action No. 13 Cv. 4836
(LAP)

- 1.) Security Guard John Doe "Sylvester";
2.) Allied Barton Security Services, LLC,
Defendants

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#
DATE FILED: 11/1/13

I. STATEMENT OF JURISDICTION AND VENUE

1.) This is a civil action seeking relief and damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant 42 U.S.C. §1983. The Court has Jurisdiction over the action pursuant 28 U.S.C. § 1331, 1343(3) and (4), and 2201.

The SOUTHERN DISTRICT is an appropriate venue under 28 U.S.C. § 1391(b)(2) because it is where the events giving rise to this claim occurred.

II. PARTIES TO THIS ACTION

- 2.) Plaintiff - 1: Tony Shaw, Din 12A2399
Address : Groveland Corr. Facility
PO Box 50
Soyea, NY 14556-0050
- 3.) Defendant - 1: Securit Guard John Doe, "Sylvester",
Address : employed by Allied Barton Security
Unknown Address
- 4.) Defendant - 2: Allied Barton Security Services, LLC,
Address : Security Contractor/Company
Unknown Address
- 5.) Defendants are Sued in Individual and Official Capacity.

III. PREVIOUS LAWSUITS

6.) Plaintiff began a 42 U.S.C. §1983, filed on 7-17-13, dealing with the same facts as herein stated: Civil Docket Case No. 1:13-cv-04836-LAP; Complaint was dismissed without prejudice,

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by Judge L.A. Preska, on October 15, 2013, due to the fact that Plaintiff had filed the Complaint with Two (2) un-related Claims. Judge Preska then gave Plaintiff an additional Docket No. (1:13-cv-06885-LAP), for that Second Claim, which Plaintiff will file separately from claim herein.

7.) Plaintiff has begun NO other lawsuits, that relate to his present imprisonment/sentence.

IV. STATEMENT OF CLAIM

- 8.) Due Process Rights, **FOURTEENTH AMENDMENT;**
- 9.) Right to be Free From Unreasonable Searches and Seizures, **FOURTH AMENDMENT;**
- 10.) Right to be Free From Cruel and Unusual Punishment, **EIGHTH AMENDMENT.**
-

V. FACTS

11.) Place where Complaint Accrued: Time Square Hotel, 225 W. 43rd Street, at Common Ground DHS (dept. Homeless Srvs.)

12.) Date Complaint Accrued: August 25, 2010

13.) Description of Incident leading to Complaint: On the above date, and at the above place, Plaintiff was residing at, while Plaintiff was heavily medicated (mental Health med.), and became a little upset, due to a negative phone call. Foresaid Defendant - 1, Security Guard 'Sylvester', upon seeing that the Plaintiff was not well 'emotionally' then asked Plaintiff if he "would like to be escorted back to Room 936," where the Plaintiff was residing. Without the Plaintiffs Consenting to being escorted to his room, Def. - 1 told him "its not a choice", and proceeded to escort him to room 936. Upon entering his room, Plaintiff was asked by Def. - 1: "Do you want a 'blowjob'?", Plaintiff responded that "NO!", and pushed Def.-1 away from him (this occurred while plaintiff was lying in his bed, because Def.1 had ordered him to do so), while Def. 1 attempted to pull the plaintiff's pants down, Plaintiff jumped up from his bed, at which point Def. 1 backed a short distance away from Plaintiff, un-zipped his pants, thereby **exposing his Penis to Plaintiff**, and asked "Is yours bigger than Mine"?, Plaintiff responded to this by yelling "Leave now, Get Out"!, at which point Def. 1 did exit Plaintiff's room 936.

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14.) Post Incident: Plaintiff reported Incident to the Facility Senior Counselor on site Mr. Paul Dorasen (who then encouraged Plaintiff to File a Police Report), Police Report was then Filed the following Day, and is attached hereto, Plaintiff also reported incident to John Scott (Therapist), and Alvin Ruiz (Psychiatrist), both of whom are located at 80 Vandam Street, Behavior Health Center New York, NY 10013. Plaintiff also had the Senior Counselor review Video Surveillance Tape, which showed Def - 1 in the Plaintiffs Room for an un-explainable amount of time. As a result of this Incident Defendant - 1 was Fired/Removed from working at the Facility.

VI. LEGAL CLAIMS

15.) Plaintiff realleges and incorporates by reference paragraphs: V.11 - 14.

16.) The Public Lewdness, Sexual Assault, and unsafe conditions, violated Plaintiff Tony Shaw's Rights and Constituted Cruel and Unusual Punishment an EIGHTH & FOURTEENTH AMENDMENT Violation to the Constitution of the United States. In addition to FOURTH AMENDMENT Violation when Security Guard Def - 1, did attempt to 'Touch Plaintiff Inappropriately' and/or 'Take his Pants Off' in direct Violation/Opposition to United States Constitution, 'Sexual Assault'.

17.) The Plaintiff has no Plain, adequate, or Complete Remedy at Law to redress the Wrong(s) described herein. Plaintiff has been and will continue to be irreparably injured by the Conduct of the Defendants unless the Court grants Relief which Plaintiff seeks to Compensate and Punish Defendant(s) for their Direct and/or Indirect Violation of Plaintiffs Constitutional Rights.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully Prays that this Court enter Judgment Granting Plaintiff the Following;

18.) A Declaration that the Acts or Omissions described herein Violated Plaintiff's Rights under the Constitution and Laws of the United States.

19.) Compensatory Damages in the Amount of \$ 5, 000, 000 ;

20.) Punitive Damages in the Amount of \$ 5, 000,000 against Each Defendant (1 & 2), Specifically against Def - 1 in His Direct Violation of Plaintiffs Constitutional Rights; and against

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Defendant - 2 for Allied Barton Security Service's, LLC, Indirect Violation of Plaintiff's Constitutional Rights, both Individually, and in Their Official Capacity, for its Failure to properly train and screen its Actual Employees.

- 21.) A Jury Trial on all Issues Triable by a Jury.
- 22.) Plaintiff's Costs in this Suit, including Filing Fee.
- 23.) Any additional Relief this Court may Deem Just, Proper, and Equitable.

DATED: October 29, 2013

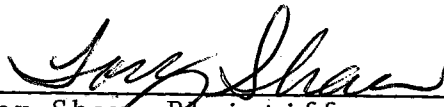
Respectfully Submitted, TONY SHAW

Tony Shaw, Plaintiff
Groveland Corr. Fac.
PO Box 50
Sonyea, NY 14556-50

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF LIVINGSTON)

I, TONY SHAW, Plaintiff herein, and I have read the foregoing Complaint and hereby Verify that the matters alleged therein are true, except as to those matters alleged on information and belief, and, as to those matters, I believe them to be true. I Certify under Penalty of Perjury that the foregoing is Correct and True.



Tony Shaw, Plaintiff, pro se
Groveland Corr. Facility
PO Box 50, Sonyea, NY 14556-50

Groveland Corr
Sworn To Before Me This
21st day of Oct, 2013

NOTARY PUBLIC

JAMES L. AUSTIN JR.
NOTARY PUBLIC STATE OF NEW YORK
#01AUG137639
MY COMMISSION EXPIRES 12/5/13
CATTARAUGUS CO.



POLICE DEPARTMENT
LEGAL BUREAU
F.O.I.L. Unit, Room 110C
One Police Plaza
New York, NY 10038

G.R.V.C.

9/14/2011

Tony Shaw 3491106308
0909 Hazen Street
East Elmhurst NY 11370

File # 2011-PL-5377
Your File #

Dear Sir or Madam:

This is in response to your letter dated 9/3/2011 which was received by this office on 9/9/2011 in which you requested access to certain records under the Freedom of Information Law, N.Y. Public Officers Law (POL) §§ 84 et seq. (FOIL).

Before a determination can be rendered, further review is necessary to assess the potential applicability of exemptions set forth in FOIL, and whether the records can be located. In order to process your request, we require the following additional information:

Type of Incident Reported Sex Assault

Precinct of Incident 14

Location of Incident 255 W 43 ST

Date of Incident 8/25/10

Other:

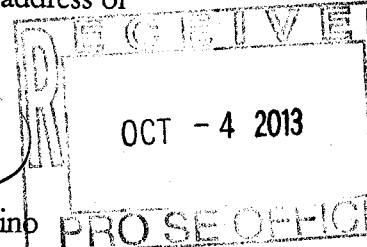
Security Guard From Allied Barton, Sylvester

You must provide this information to this unit within thirty days of the date of this letter, addressed to the attention of Associate Investigator Hippolyte, who has been assigned to handle your case. Failure to do so will result in this file being CLOSED.

This is not a denial of the records you requested. Should your request be denied in whole or in part, you will then be advised in writing of the reason for any denial, and of the name and address of the Records Access Appeals Officer.

Sincerely,

Richard Mantellino
Lieutenant
Records Access Officer



NOTE: Tony Shaw 1/22/2012
This form must be sworn to before me this 22 day
of February 11 2012
Kisha Muralidhar
COMMISSIONER OF DEEDS
COURTESY • PROFESSIONALISM • RESPECT
Qualified in Kings County
Commission Expires November 1 2013

BE NOTARIZED:
(SEX OFFENSE):

PRO SE OFFICE



POLICE DEPARTMENT
LEGAL BUREAU
F.O.I.L. UNIT, ROOM 110C
ONE POLICE PLAZA
NEW YORK, NY 10038

Tony Shaw 3491106308
G.R.V.C.
East Elmhurst NY 11370

February 29, 2012

File # 11PL105377
Your File #

Dear Sir or Madam:

This is in response to your letter dated, 9/3/11 in which you request access to certain records under the New York State Freedom of Information Law ("FOIL").

☒ Responsive to your request, the following document(s) have been accessed and/or photocopied: Complaint report(10245)

☒ Redactions have been made to the document(s) in that release of the information would represent an unwarranted invasion of personal privacy and would endanger the life and safety of any person {§ 87.2 (b) and (f)}.

☒ In total, 3page(s) have been copied. Please remit payment of \$0.75

☒ Documents are enclosed.

☐ Upon receipt of payment, documents will be mailed.

PAYMENT PROCEDURE

Send check or money order Payable to the "N.Y.C.P.D" (NO CASH)

Mail payment to:

New York City Police Department, One Police Plaza -Room 110C, NYC 10038

Note: Please include the FOIL number on the check or money order

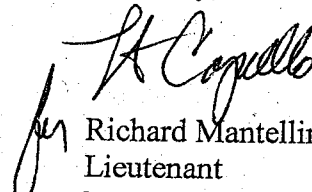
APPEAL PROCEDURE

You may appeal this decision or any portion thereof in writing, within thirty (30) days of the date of this letter, and forward it to:



Jonathan David

Records Access Appeals Officer, N.Y.C.P.D, One Police Plaza-Room 1406, NYC 10038-1497

Sincerely,


for Richard Mantellino
Lieutenant
Records Access Officer

COURTESY • PROFESSIONALISM • RESPECT

		<h1 style="margin: 0;">New York City Police Department</h1> <h2 style="margin: 0;">OmniForm System - Complaints</h2>			
Report Cmd: 014		Jurisdiction: N.Y. POLICE DEPT		Record Status: Final, No Arrests	
				Complaint #: 2010-014-10245	
Occurrence Location: INSIDE OF [REDACTED] Name Of Premise: THE TIMES SQUARE COMMON GROUND Premises Type: RESIDENCE - APT. HO Location Within Premise: APARTMENT Visible By Patrol?: NO				Precinct: 014 Sector: H Beat: 1 Post: 85	
Occurrence From: 2010-08-25 22:30 WEDNESDAY Occurrence thru: Reported: 2010-08-30 17:00 Complaint Received: WALK-IN				Aided # Accident # O.C.C.B. #	
Classification: PUBLIC LEWDNESS Attempted/Completed: COMPLETED Most Serious Offense Is: MISDEMEANOR PD Code: 661 LEWDNESS,PUBLIC PL Section: 24500 Keycode: 360 LOITERING FOR DRUG PURPOSES				Case Status: OPEN Unit Referred To: P.D.U. Clearance Code: Log/Case #: 0 File #: 35 Prints Requested? NO	
Was The Victim's Personal Information Taken Or Possessed? NO			Was The Victim's Personal Information Used To Commit A Crime? YES		
Gang Related? NO	Gang Intel Log #:		Name Of Gang:		Child Abuse Suspected? NO
DIR Required? NO			Child in Common? NO		Intimate Relationship? NO
<u>If Burglary:</u> Forced Entry? Structure: Entry Method: Entry Location:			<u>Alarm:</u> Bypassed? Comp Responded?: Company Name/Phone: Crime Prevention Survey Requested?:		<u>If Arson:</u> Structure: Occupied?: Damage by:
Supervisor On Scene - Rank / Name / Command :			Canvas Conducted: NO		Interpreter(if used):
NARRATIVE: C/V WALKED INTO MTS PCT TO REPORT THAT AT T/P/O, WHILE HE WAS CHATTING ON THE PHONE, SECURITY VISITED HIS ROOM AND ASKED HIM TO LOWER HIS VOICE. C/V STATES THAT HE LOWERED HIS VOICE BUT 15 MINUTES LATER, C/V VISITED THE LOBBY AREA AND ASKED SECURITY HAD THEY WRITTEN HIM UP FOR YELLING IN HIS ROOM. A MALE SECURITY OFFICER, "SYLVESTER", TOLD C/V THAT THEY ARE NOT SURE IF THEY ARE GOING TO WRITE HIM UP. AFTERWARDS, "SYLVESTER" ESCORTED C/V BACK TO HIS ROOM AND TOLD C/V TO CALM DOWN BECAUSE C/V WAS HIGHLY UPSET AND EMOTIONAL OVER HIS PHONE CALL. "SYLVESTER" THEN ADVISED C/V TO LAY DOWN ON THE BED AT WHICH POINT "SYLVESTER" HOVERED OVER C/V AND ASKED C/V IF HE WANTED A BLOW JOB AS "SYLVESTER" ATTEMPTED TO PULL C/V'S PANTS DOWN. C/V LOOKED AT "SYLVESTER" IN SHOCK AND SHOVED "SYLVESTER'S" HANDS AWAY FROM HIM. C/V THEN JUMPED UP FROM THE BED AT WHICH POINT "SYLVESTER" BACKED AWAY FROM C/V. "SYLVESTER" THEN UNZIPPED HIS PANTS AND PULLED OUT HIS PENIS AND ASKED C/V IF C/V'S PENIS IS BIGGER THAN HIS. C/V TOLD "SYLVESTER", "LEAVE NOW, GET OUT!" AND "SYLVESTER" LEFT C/V'S ROOM. C/V FURTHER STATES THAT HE IS ON PSYCHOTROPIX MEDICATION AND WAS HIGHLY MEDICATED BEFORE INCIDENT OCCURRED. C/V HAS NO EMAIL ADDRESS.					
No NYC TRANSIT Data for Complaint # 2010-014-10245					
Total Victims:		Total Witnesses:		Total Reporters:	
				Total Wanted:	

1	0	1	1
VICTIM: # 1 of 1		Name: SHAW, TONY A Complaint#: 2010-014-10245	
Nick/AKA/Maiden: UMOS: NO Sex/Type: MALE Race: BLACK Age: [REDACTED] Date Of Birth: [REDACTED] Disabled? NO Need Interpreter: NO Language: N.Y.C.H.A Resident? NO		Gang Affiliation: NO Name: Identifiers: Will View Photo: NO Will Prosecute: YES Notified Of Crime: NO Victim Comp. Law:	
<u>LOCATION</u>	<u>ADDRESS</u>	<u>CITY</u>	<u>STATE/COUNTRY ZIP APT/ROOM</u>
HOME-PERMANENT	[REDACTED]		
Phone #: HOME: 212 [REDACTED]			
Action against Victim:		Actions Of Victim Prior To Incident: UNKNOWN / NONE	
Victim Of Similar Incident: NO		If Yes, When And Where	
REPORTER: # 1 of 1		Name: SHAW, TONY A Complaint #: 2010-014-10245	
Nick/AKA/Maiden: Sex/Type: MALE Race: BLACK Age: [REDACTED] Date Of Birth: [REDACTED] Need Interpreter: NO Language:		Gang Affiliation: NO Name: Identifiers: Relationship To Victim:	
<u>Location</u>	<u>Address</u>	<u>City</u>	<u>State/Country Zip Apt/Room</u>
HOME-PERMANENT	[REDACTED]		
Phone #: HOME: [REDACTED]			
WANTED: # 1 of 1		Name: UNKNOWN, SYLVESTER Complaint#: 2010-014-10245	
Nick/AKA/Maiden: Sex: MALE Race: BLACK Age: 35 Date Of Birth: UNKNOWN U.S. Citizen: Place Of Birth: Need Interpreter: Language: Accent: NO		Height: 5FT6IN Weight: 300 Eye Color: BROWN Hair Color: UNKNWN Hair Length: BALD Hair Style: BALD Skin Tone: MEDIUM Complexion: CLEAR S.S. #: 0	
		Order Of Protection: NO Issuing Court: Docket #: Expiration Date: Relation to Victim: STRANGER Living together: NO Can be Identified: YES Gang Affiliation: NO Name: Identifiers:	
<u>LOCATION</u>	<u>ADDRESS</u>	<u>CITY</u>	<u>STATE/COUNTRY ZIP APT/ROOM HOW LONG? RES. PCT</u>
BUSINESS	[REDACTED]		
Phone #: BUSINESS: [REDACTED]			
N.Y.C.H.A. Resident: N.Y.C. Housing Employee: On Duty: Development: N.Y.C. Transit Employee:			

Physical Force: NONE

Gun:
 Weapon Used/Possessed: NONE Make: Recovered:
 Non-Firearm Weapon: Caliber: Serial Number Defaced:
 Other Weapon Description: Color: Serial Number:
 Type:
 Other/Gun Specify:
 Discharged: NO

Used Transit System:
 Station Entered:
 Time Entered:
 Metro Card Type:
 Metro Card Used/Poses:
 Card #:

CRIME DATA	DETAILS
MODUS OPERANDI	UNKNOWN
ACTIONS TOWARD VICTIM	UNK
CLOTHING	ACCESSORIES -UNK -UNKNOWN COLOR
CLOTHING	OUTERWEAR -UNK -UNKNOWN COLOR
CLOTHING	FOOTWEAR -UNK -UNKNOWN COLOR
CLOTHING	HEADGEAR -UNK -UNKNOWN COLOR
CHARACTERISTICS	UNKNOWN
BODY MARKS	-UNKNOWN
BODY MARKS	-UNKNOWN
IMPERSONATION	UNKNOWN

No IMEI Data for Complaint # 2010-014-10245

Reporting/Investigating M.O.S. Name: PAA MORELAND NATASHA	Tax #: [REDACTED]	Command: M PCT S	Rep.Agency: NYPD
Supervisor Approving Name: SGT NUGNES FRANK	Tax #: [REDACTED]	Command: M PCT S	Rep.Agency: NYPD
Complaint Report Entered By: PAA MORELAND	Tax #: [REDACTED]	Command: M PCT S	Rep.Agency: NYPD
Signoff Supervisor Name: SGT CAESAR	Tax #: [REDACTED]	Command: M PCT S	Rep.Agency: NYPD



END OF COMPLAINT REPORT
2010-014-10245


[Print this Report](#)



July 09, 2013

TONY SHAW
C/O MID-STATE CORRECTIONA
PO BOX 2500
MARCY, NY 13403

**VIA CERTIFIED/
RETURN RECEIPT**

Re: Our File Number: 61804960805409
Insured: ALLIED BARTON SECURITY SERVICES, LLC
Claimant: TONY SHAW
Date of Accident: 08-25-2010

Dear Sir or Madam :

With reference to the above captioned matter, enclosed please find a Medicare Information Request form. Federal law requires liability, no-fault, and worker's compensation insurers, and self-insured entities, to obtain and report specific information about claimants who may also be Medicare beneficiaries. This information is reported to The Centers for Medicare and Medicaid Services, the federal agency that administers the Medicare program, for coordination of benefit purposes.

Please complete the enclosed form and return it in the self addressed envelope enclosed or to the address specified at the bottom of this letter. If you are represented by an attorney please forward this correspondence to them.

Thank you for your cooperation."

Sincerely,

ESIS Claims

PLEASE RETURN COMPLETED FORM TO:

ESIS AGL Claims
P. O. Box 5127
Scranton, PA 18505-0559

GROVELAND CORRECTIONAL FACILITY

P.O. BOX 50
SONYEA, NEW YORK 14556-0050

NAME:

Tony Spaw

DIN:

12A2399

DORM:

K-1-66

PRO SE OFFICE
(CLERK)

*United States District Court
Southern District of New York
U.S. Courthouse - 500 Pearl Street
New York, N.Y. 10006*

LEGAL MAIL

RECEIVED
PRO SE OFFICE
NOV 24 2013